

Washington
State Auditor's Office

Annual Report on

The State Employee
Whistleblower Program

1996



Washington
State Auditor
Brian Sonntag

Citizens of the State of Washington:

Front-line state employees play an important and constructive role in holding state government accountable to the citizens they work for. They are often in the best position to identify ways to improve state agency operations and observe improper governmental actions. The value that employees provide to the State Employee Whistleblower Program is reflected in this annual report which I am pleased to present to you.

The report shows a significant increase in the number of assertions about suspected improprieties brought to us by whistleblowers since 1993. There is a corresponding increase in the number of assertions that we substantiated. In many cases, it has led to constructive improvement of agency operations.

Over the past year, we have strengthened the program with management changes and by better informing state employees of their rights and protections as whistleblowers. Employees are more aware of how they can use the program. They bring information to us in good faith knowing that their identities are protected from disclosure.

Our role -- and we take it very seriously -- is to investigate employee assertions of improper governmental actions independently, objectively, constructively and thoroughly. Whether an assertion is substantiated or not, our review of an agency practice or activity is valuable in affirming that systems are operating properly. Shining a light on a program is beneficial because it frequently leads to productive changes. It also helps front-line employees better understand how a law or rule may be applied. State laws and regulations are not always black and white.

I firmly believe the State Employee Whistleblower Program is of great value to the state of Washington. The program's intent is not simply to point fingers and place blame. The program is aimed at achieving greater accountability and improving government operations. That leads to greater public confidence in government and better service to the public. That's what we are in this business to provide.

Sincerely,

BRIAN SONNTAG
STATE AUDITOR

1996 Annual Report

State Employee Whistleblower Program

December 16, 1996

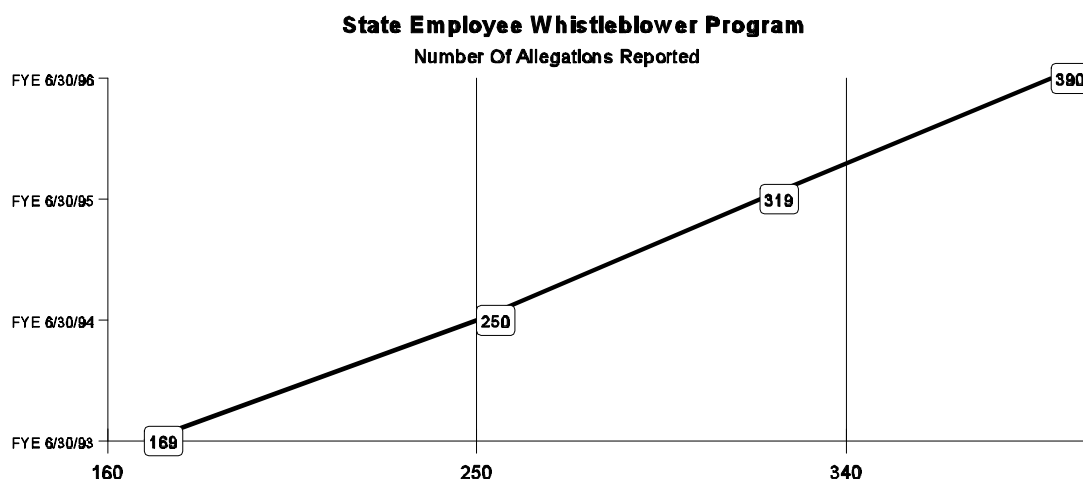
The State Employee Whistleblower Program, administered by the Washington State Auditor's Office, was established by legislation in 1982 to encourage state employees to report instances of government improprieties and protect them against retaliation. The 1996 fiscal year marked a significant turning point for the program. A record number of cases of asserted improper government activity were reported by state employees. That led to a corresponding increase in the number of assertions that were substantiated following our investigation.

Significant Rise in Assertions

During the fiscal year ended June 30, 1996, reports of improprieties in state government increased 22 percent over the previous 12-month period. Since 1993, the number of cases brought to us is up more than 130 percent. The rate of substantiation has gone up as well. The number of assertions verified more than doubled in the 1996 fiscal year over the previous year.

The dramatic increases in the number of cases and the number substantiated is the result of our increased emphasis on the Whistleblower Program. We also attribute the rise to greater state employee awareness of their right to bring forward allegations of improprieties. We have stepped up efforts to better inform employees of what constitutes improper activity and how to report it.

Specifically, 390 assertions of improper government actions were reported during the 1996 fiscal year. That number compares with 319 in the prior fiscal year. In 1993, 169 allegations were brought to the State Auditor's Office. One hundred of the assertions were substantiated in 1996 compared with 48 in the previous fiscal year. The number of substantiations was up considerably from 1993, during which 35 allegations were verified.



Nearly 60 percent of assertions in 1996 were provided by whistleblowers who revealed their identity to us. Under the whistleblower law, the identity of whistleblowers is protected from disclosure. Slightly more than 40 percent of the assertions were submitted anonymously. Some 23 percent of the anonymous assertions were substantiated, nearly the same as the 26 percent rate of substantiation for all assertions in 1996.

Wider Variety of Assertions

Recent whistleblower cases also reflect significant changes in the nature of allegations from past years. A more distinctive array of assertions

were brought to us, including some that alleged criminal violations, a breach in right of privacy laws and an increased number of asserted ethical violations.

Strategic Goal of the State Employee Whistleblower Program:

To investigate and report, in a responsive and unbiased manner, assertions of improper activities in state government.

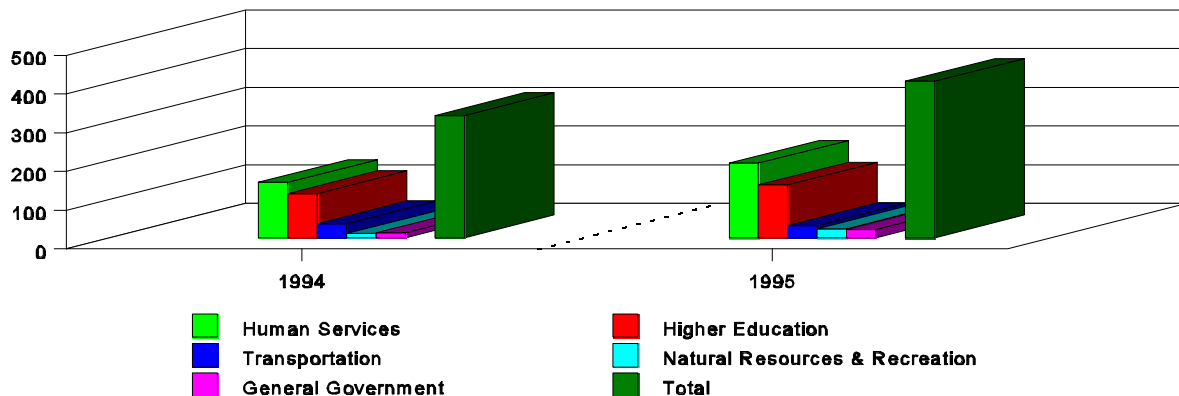
It is important to point out that the State Government Whistleblower Act (Chapter 42.40 RCW) gives broader authority to the State Auditor to investigate assertions of improper government activities than we have in performing our regular financial and legal compliance audits. The law empowers the Auditor to conduct investigations of any employee action that allegedly violates a state law or regulation, poses a substantial danger to public health and safety, abuses authority, or grossly wastes public funds.

Examples of cases we investigated this past fiscal year:

- A community college professor used his college computer to collect sexually explicit material from the internet.
- A whistleblower alleged that telephone conversations between drunken-driving suspects and their attorneys were illegally taped at a State Patrol district office. The State Auditor referred the assertions to the State Patrol, and an internal investigation confirmed them.
- A manager for the Department of Natural Resources allowed overharvesting of timber on public lands. He oversaw DNR contracts with some of the same forest products companies that he dealt with as the owner of his own private timber business. Following our investigation, the case was turned over to the Executive Ethics Board.
- The Department of Ecology faced assertions that it allows air quality levels from grass burning to exceed national public health limits. Even though the assertions were not substantiated, a review of the air quality program helped result in system changes that improved agency operations. A positive outcome.
- A manager at the University of Washington misappropriated motor vehicle parts for his personal use and falsified documents to conceal the theft. The King County prosecutor brought theft charges. The manager, who did not contest the charges, received a sentence.

Overall, one third of the 390 assertions reported related to a gross waste of public funds. Another 25 percent alleged violations of state laws, rules and regulations while 17 percent involved use of public resources for private benefit. The remaining assertions related to failing to account for state

Allegations by Fuctional Area of Government



assets, abuse of authority, violations of the bidding process, conflict of interest, threat to public health or safety, improper campaign practices and violations of the public records act.

Strengthened Whistleblower Program

Because of the increasingly wider array of allegations at the state level, we forged partnerships with the Washington State Patrol, Federal Bureau of Investigation and county prosecutors in investigating instances of alleged criminal activity. We also work with ethics boards, the federal Inspectors General Offices, labor organizations representing state employees, agency directors, the state Human Rights Commission, Public Disclosure Commission and the Attorney General's Office on a variety of whistleblower cases when appropriate.

Significant strides were made to strengthen the State Employee Whistleblower Program during the past year. We developed informational materials to help state employees understand their rights under the program. Internally, we upgraded the management of the program and assigned responsibility for it at the deputy auditor level. We reorganized and improved the program's information management system.

Importantly, we have taken steps to improve the quality of investigations. As a pilot project, we hired an experienced investigator to complement the expert skills of our auditors in investigating suspected improper government activity.

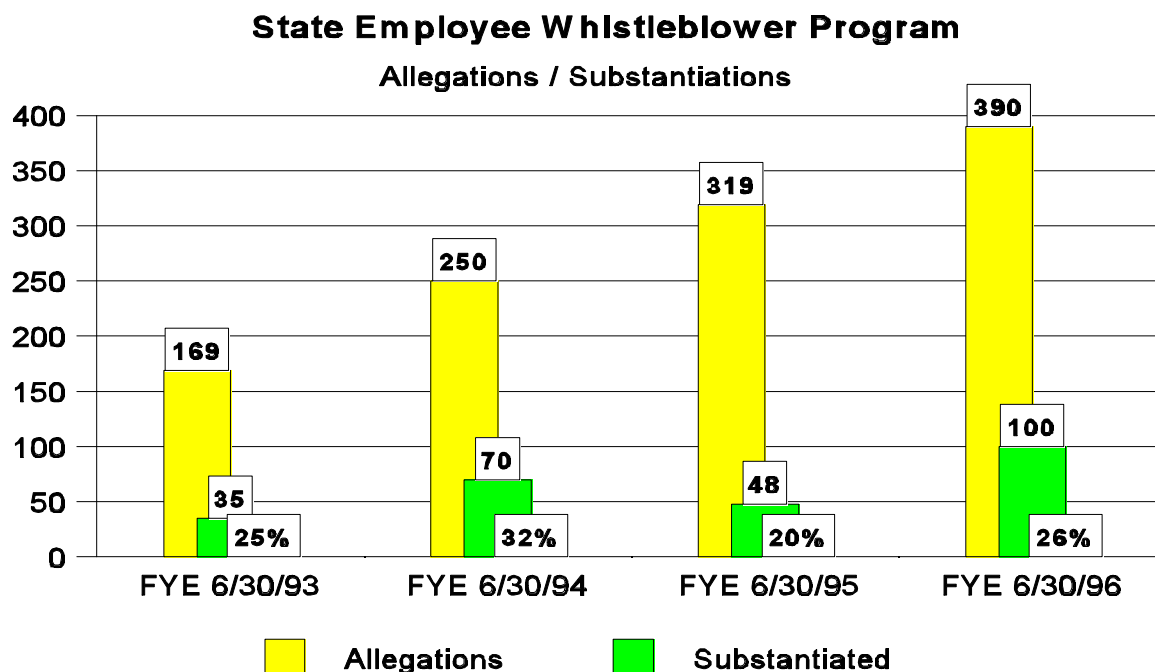
Improvements Through Proposed Legislation

During the 1997 fiscal year, we are undertaking several initiatives to further strengthen the program. We will ask the Legislature next year to enact a comprehensive update of the State Employee Whistleblower Act.

Our executive request measures will:

- Clarify definitions of what constitutes improper governmental activity.
- Establish a statute of limitations of one year for reporting improper governmental actions.
- Authorize the State Auditor to use more discretion in evaluating whether to investigate an assertion of improper governmental action.
- Provide more realistic time frames for completing preliminary and final investigations.
- Fix accountability and establish time lines for achieving corrective action.
- Strengthen protections from retaliation.

These amendments will give us the flexibility we need to ensure we are investigating assertions that are most likely to pay dividends to the citizens of Washington. They will help us carry out our mission timely, effectively and efficiently.



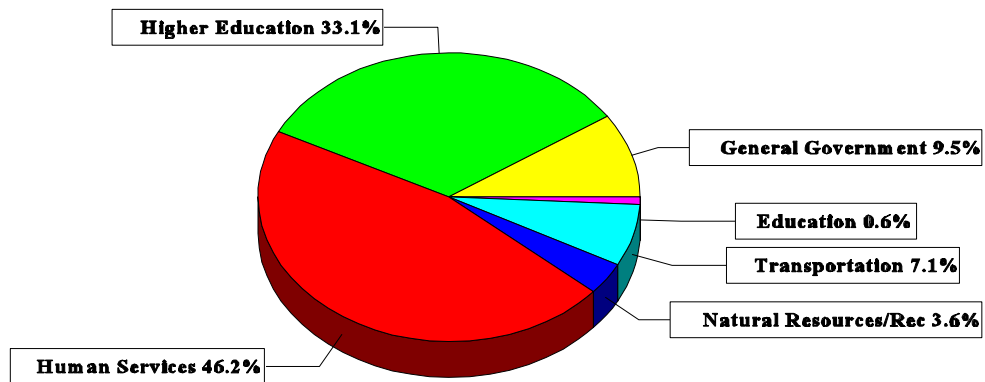
We also are continuing to step up efforts to make state employees more aware of the program, including use of the State Auditor's Office internet home page to explain the whistleblower law and how to report suspected improper activity. We also are widening the preparation and distribution of informational materials.

The accomplishments in 1996 and the growth of the program attest to its value in holding state government accountable to citizens and improving government operations.

Whistleblower Assertions By Functional Area of Government
Fiscal Years Ending 1993 and 1996

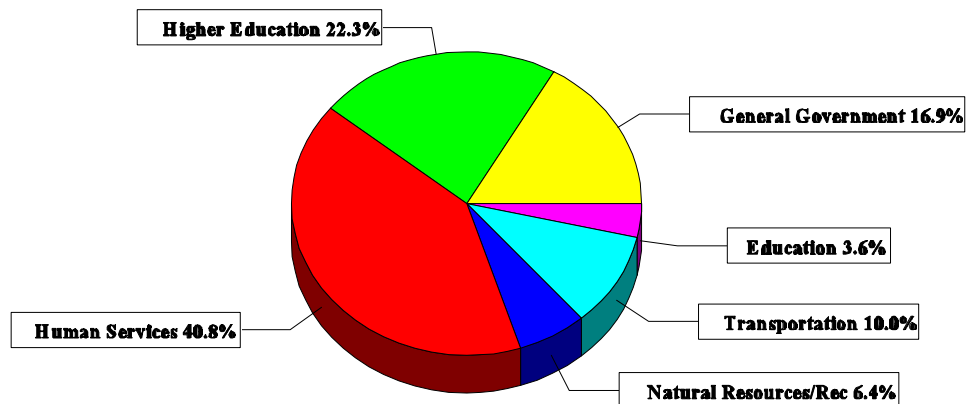
State Employee Whistleblower Program

By Functional Area of Government - FYE 6/30/93



State Employee Whistleblower Program

By Functional Area of Government - FYE 6/30/96



About the Whistleblower Program

The State Employee Whistleblower Program was enacted by the Legislature in 1982 to give state employees a means of reporting suspicions of improper governmental actions. The Whistleblower Act (Chapter 42.40 RCW), which established the program, defines an "improper governmental action" as any action by a state employee that violates state law, abuses authority, wastes public funds, or endangers public health or safety.

The Whistleblower Act gives the State Auditor authority to investigate a broad array of alleged government improprieties beyond our regular financial and legal compliance auditing audit work. Only personnel actions are specifically exempt from the Auditor's purview under the Whistleblower Program. Personnel actions include terminations, demotions, grievances, transfers, performance evaluations and disciplinary actions. The exemption was made in the Whistleblower Act because other agencies -- State Personnel Appeals Board and Human Rights Commission -- exist to address personnel-related actions.

The State Auditor generally does not conduct whistleblower investigations for local government. A 1992 law -- Local Government Whistleblower Act (Chapter 42.41 RCW) -- requires cities, counties, school districts and other local governments to create their own programs for their employees. The State Auditor may get involved only if a local government does not have policies and procedures for filing assertions and the applicable county prosecutor has engaged in alleged improper governmental actions.

All Washington state employees may report improprieties through the Whistleblower Program. They may include temporary employees, civil service personnel, exempt employees and elected officials. Once they report any improper activity, their identity is kept confidential. They also may bring assertions to us anonymously. State law prohibits retaliation of state employees and anyone else providing information. State law (Chapter 49.60 RCW) provides remedies, which are administered by the Human Rights Commission, for any whistleblower subjected to any retaliatory action.

Once assertions of improper government activities are filed with us, we conduct a preliminary investigation within 30 days. While some complex investigations may require more time, most whistleblower investigations are completed within 90 days. By law, no investigation can go longer than one year.

Following an investigation, a final report is issued explaining each assertion, the rule or law that applies, our analysis and conclusions. For each substantiated assertion, the affected state agency submits a corrective action plan. The reports are sent to the whistleblower and agency and are available to the public. The reports are also provided to agencies responsible for enforcement.

Beyond our distribution of informational material to each employee, every state agency is responsible for providing their employees with information on reporting improper governmental action to the State Auditor.

Examples of Substantiated Whistleblower Assertions

Over the past year, 26 percent of assertions of improper government activity were substantiated during our investigations under the State Employee Whistleblower Program. Here are a few cases:

\$11,200 the Ferry System Forgot About

Washington State Ferries set up ticket vending machines at Seattle's Pier 50 in 1992 to make it convenient for passengers to pay fares. When technical problems plagued these machines, the ferry system shut them down in February 1994.

In June 1995, the machines were moved to a warehouse. In preparing for the move, ferry system employees discovered \$11,209 was left in the machines. The ferry system lost more than 14 months of interest, and prevented those funds from being available for other purposes.

Following our report, the ferry system established controls on fare collection activities and reorganized to clarify roles and responsibilities of ferry system staff members, particularly those responsible for managing fare revenues.

State Equipment and Resources Misused

The former chief executive officer of Eastern State Hospital used the state telephone system, a state vehicle and other state equipment and personnel for personal benefit.

The executive made nearly 100 personal long-distance calls using the State Controlled Area Network (SCAN) telephone system. He also used a state vehicle for trips that involved personal business, and he was unable to provide an official purpose for trips as required. At his direction, state employees delivered state-owned equipment for use at private functions in his home.

The Department of Social and Health Services, which oversees the operation of Eastern State Hospital, committed to take corrective action, including recovery of unallowable costs. The executive subsequently resigned.

State Computer Used to Collect Sexually Explicit Material

The chair of Clark College's Math/Computer Science Department improperly used his office computer to collect sexually explicit material involving children. In one instance, the professor used the college computer to receive a photograph of a naked teen-age girl. Our investigation also discovered that he also stored computer disks and files in his office. State law prohibits any state public official or employee to use public resources for private purposes.

Illegal shredding of public documents not substantiated

A whistleblower report asserted that the state Office of Insurance Commissioner was illegally destroying important public records that related to current litigation and administrative appeals with insurance companies. Following our investigation, we found no willful or illegal destruction of public records.

We did find that the Office of Insurance Commissioner could not locate 12 of 117 records that had been retrieved from the state Records Center. Citing deficiencies in the office's system of tracking files, we recommended policies and procedures be established to maintain accountability for records obtained from the Records Center.

Bidding Procedures Not Followed and Records Destroyed

The Department of Information Systems did not follow bid evaluation policies and procedures for the Washington Information Network's project to set up kiosks that would enable citizens to access public information. We found that scoring sheets used in evaluating private companies vying for the project contract were destroyed in violation of state law. The person responsible for the evaluation said he was not aware that score sheets should be retained. The department pledged to take steps that would ensure proper retention and accessibility of public records.

Conflict of Interest in Timber Management

A district manager for the Department of Natural Resources also owned a private timber business. In his role as a DNR district manager in Eastern Washington, he supervised and monitored contracts with the same timber purchasers that he dealt in his business. The relationship was a conflict of interest. This issue was referred to the Executive Ethic Board. We also substantiated another assertion that in some contracts, he allowed a level of timber harvest beyond what was stipulated.